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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,761	01/23/2004	Andrew Halliday	67642	7547
48940	7590	11/30/2006		
FITCH EVEN TABIN & FLANNERY 120 S. LASALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			EXAMINER ALEXANDER, REGINALD	
			ART UNIT 1761	PAPER NUMBER

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/763,761

Applicant(s)

HALLIDAY ET AL.

Examiner

Reginald L. Alexander

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6, 7, 9-11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) 10, 11 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 9 and 14-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 9 is objected to because of the following informalities: The claim is dependent upon itself. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over EPO 1101430 in view of Fond '702.

There is disclosed in the European reference a cartridge containing one or more beverage ingredients 20 and being formed from substantially air and water-impermeable materials, the cartridge comprising a storage chamber 28 containing the ingredients, the cartridge further comprising a filter 16 disposed between the storage chamber and at least a part of an undersurface of a top 14 of the cartridge, one or more passages being formed between the filter and top of the cartridge, which one or more passages communicate with an outlet 27 of the cartridge whereby a beverage flow path linking one or more inlets 26 to the outlet passes through the filter into the one or more passages, wherein the cartridge has a disc-shaped outer member 12 having a central axis and a hollow inwardly directed and closed cylindrical extension 40 centered on the central axis.

There is disclosed in Fond a disc-shaped cartridge 1 containing one or more beverage ingredients 5 and being formed from air and water impermeable materials, the cartridge comprising a storage chamber, wherein the aspect ratio of the vertical height of the storage chamber to the breadth of the chamber is between 0.10 and 0.43 (see col. 2, lines 45-50).

It would have been obvious to one skilled in the art to modify the cartridge of EPO 1101430 with that taught in Fond, for the purpose of constructing a beverage cartridge of such size and shape so as to be compatible to different size coffee machines.

In regards to the flow pattern of the beverage, it provides no structural limitations to the claims and appears to be dependent upon what location water is injected into the cartridge. This limitation is not indicative of the cartridge itself but the device used to inject liquid thereinto.

The structural limitations of the claimed cartridge are met by the prior art.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over EPO 1042978 in view of Fond '702.

There is disclosed in the European reference a cartridge containing one or more beverage ingredients and being formed from substantially air and water-impermeable materials, the cartridge comprising a disc-shaped outer member 20 having a central axis, an interior storage chamber containing the ingredients, a hollow inwardly directed cylindrical extension (figs. 1 and 2) centered on the central axis, an upper face positioned radially outward from the central axis, an outlet 28 axially aligned with the

extension, and an inlet 26 aligned with the upper face on an opposite side of the cartridge.

There is disclosed in Fond a disc-shaped cartridge 1 containing one or more beverage ingredients 5 and being formed from air and water impermeable materials, the cartridge comprising a storage chamber, wherein the aspect ratio of the vertical height of the storage chamber to the breadth of the chamber is between 0.10 and 0.43 (see col. 2, lines 45-50).

It would have been obvious to one skilled in the art to modify the cartridge of EPO 1042978 with that taught in Fond, for the purpose of constructing a beverage cartridge of such size and shape so as to be compatible to different size coffee machines.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over EPO 1101430 in view of Fond as applied to claims above, and further in view of EPO 0638486.

EPO 0638486 discloses the use of a circumferential manifold.

It would have been obvious to one skilled in the art to provide the cartridge of EPO 1101430 with the circumferential manifold disclosed in EPO 0638486, in order to disperse the inlet flow of liquid to various sides of the beverage ingredient.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla
17 November 2006



Reginald L. Alexander
Primary Examiner
Art Unit 1761